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COORDINATED ISSUE
FOOD INDUSTRY
INVESTMENT CREDIT ON REFRIGERATED STRUCTURES

FACTS

Company A, a food processor that engages in processing and marketing frozen foods, builds a warehouse and installs a refrigeration system that allows them to store their frozen products prior to shipment. They claim investment credit on the refrigeration equipment.

QUESTION

Does the entire building and the equipment involved qualify as section 38 property?

LAW

Section 38 allows investment credit on tangible, personal depreciable property used in a trade or business.

Revenue Ruling 68-405 provides that refrigeration equipment installed in an existing building qualify for investment tax credit, but the insulation added to the walls, floor and ceiling does not qualify for investment tax credit.

Revenue Ruling 71-489 provides that refrigeration structures which are portable, that is, they can be disassembled, moved and installed in a building, qualify for investment credit. It also states that refrigeration units constructed as an attachment to an existing building that is used in the cooling and storing of milk also qualify as section 38 property.

Revenue Ruling 74-452 states that the storage of processed foods does not qualify a structure for investment credit under the fungible goods concept since the definition of fungible goods means a commodity in a large mass prior to its consumption of utilization.

Revenue Ruling 84-60 holds that a structure that is used for the bulk storage of a fungible commodity, but can reasonably be adopted to other uses, is a building and is not section 38 property.

Revenue Ruling 84-240 states that individual room refrigeration units that were installed in an existing warehouse building to convert certain storage rooms from dry storage, with no temperature control, to refrigerated space, are not structural components of the building but are tangible personal property and qualify as section 38 property.

Letter Ruling 8141014 and 814014A provide that insulated wall panels installed in a meat processing plant do not qualify for investment tax credit.

A. C. Monk and Co. vs. The United States of America (82-2 USTC, 9551), states that if a building is used for some processing along with warehousing, and such structure or facility can be economically converted to other use, it should be considered a building, and thus ineligible for investment credit.

CONCLUSION

In the situation cited in the facts above, the warehouse building itself would not qualify because it could be converted to other uses, and the goods stored did not meet the definition of fungible goods as outlined in Revenue Rulings 74-452 and 84-60.

The refrigeration equipment would qualify for investment credit under Revenue Ruling 81-240.

It is important that when the investment credit is questioned or disallowed on refrigeration units, that photographs of the property, both inside and outside, be included in the documentation so that the Appeals Officer handling the issue can see the specific reasons for the disallowance.

There have been instances when the Service allowed investment credit on structures Revenue Ruling 71-104 allowed investment credit on a burner and preheating structure of a cement kiln facility. The structures were considered as components of machinery rather than building.

In Revenue Ruling 69-557, the Service allowed investment credit on dry kiln structures which consisted of a concrete base, two sides of tiles, two sides with large sliding doors and a built up roof. The dry kiln structures were not used to provide working space, but were used to accomplish moisture removing. The structures were considered an essential item of machinery and equipment.